REMARKS

Reconsideration of the subject application in view of the above amendment and the following remarks is respectfully requested. Based on the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

The Examiner has rejected claims 11 and 12 under 35 USC 112, first paragraph, as failing to be enabling. Applicant respectfully disagrees with this rejection. The feature that "at least one route table has a data structure that is different from a table structure" is supported by the disclosure on page 13, lines 22-24 of the specification. Any person skilled in the art knows the meaning of "route table" or "routing table" and the structure of a table. An example of a reference in which the term "table structure" is used is K.L. Calvert, ed. "Architectural Framework of Active Networks, Version 1.0" page 14 section 9.3 "Common Objects and Services" first paragraph, 3rd line: "Rather than requiring each EE to define and maintain its own routing table structure, the Node OS can . . . " It should be noted that this document stems from the core "active networking research community and is edited by a co-author of the "Smith et al" paper that has been cited as a 103 reference in this case.

In the same section, end of 2nd paragraph, there is a mentioning that the "routing table" refers to the "abstraction itself." In other words, there are different ways of implementing such an abstraction. The fact that these authors do not deem it necessary to further specify how such an abstraction could be implemented, is proof that this is common knowledge to those skilled in the art. Accordingly, Applicant respectfully requests withdrawal of this rejection to claims 11 and 12.

The Examiner has rejected claims 1, 5 and 10-17 under 35 U.S.C. 102 (e) as being anticipated by Banchs et al. ("Multicasting Multimedia Streams with Active Networks)." Although Banchs discloses instruction memory/cache and routing tables, Banchs discloses such concepts as separate entities. In contradistinction, the invention merges these two concepts. Namely, the routing table comprises entries that contain both, an index and an operation code, in other words, the merging of the operation code with the routing table. To clarify this distinction, the Applicants have amended claims 1 and 16.

Neither the ANTS system nor the M0 messenger system referenced in Banchs include any notion of the routing table being responsible for storing or associating an operation code on the packet. Instead, all techniques described in Banchs assume that route table and code repository are separate. In ANTS, a

special code cache is maintained that is independent of routing. In the MO system, a separate dictionary is used for code that has nothing to do with routing either.

More specifically, in Banchs there is always the clear separation of the two concepts as is best seen in Figs. 1 and 2. Both figures depict the "routing table" as being a different entity from the "code cache" of ANTS (Fig. 1) and the "shared memory" or "messengers" of MO where operation codes are stored (Fig. 2).

Nowhere in Banchs is there any wording that would support the interpretation that the route table includes an operation code, as indicated by the Examiner. To equate routing table and code cache as done by the Examiner in writing "routing table (code cache)" is an undue interpretation applying hindsight.

Banchs refers to code being invoked based on an identifier in the packet, but this step occurs conceptually as well as functionally only after the packet has passed through the routing table. No code is stored in the route table. Banchs explicitly identifies the code store as being the place where instructions are stored and never shows or describes a route table entry with an operation.

With regard to claims 5, 11 and 12, Banchs in the section called "Dynamic Code Management" only refers to updating the code cache. The routing table is not mentioned at all.

Claim 9 defines the handling of tokens for which no route table entry is present. Banchs' reference to "remove errors in network software" concerns replacing/upgrading networking software, which is not related to the former.

Regarding claims 10 and 14, Banchs discloses default handling of capsules in the context of a code cache. This has nothing to do with a route table with an operation code as already mentioned before.

Regarding claim 15, the identifier referenced in Banchs is only used in conjunction with the code cache, but not the route table.

The Federal Circuit has mandated that 35 U.S.C. § 102 requires no less than "complete anticipation...[a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim." Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, 32 U.S.P.Q. 2d at 1019; Verdegaal Bros., 2 U.S.P.Q. 2d at 1053.

In view of the above, since Banchs does not disclose all the features of claim 1 and 16, it is respectfully submitted that Banchs does not anticipate the

present invention, as defined by claims 1 and 16. It is respectfully submitted that claims 1 and 16 are patentable over the prior art. Accordingly, it is respectfully submitted that claims 1 and 16 and claims 5 and 10-17 that depend therefrom respectfully are patentably distinct over each such art and thus withdrawal of such rejection over such claims is respectfully requested.

The Examiner has rejected claims 6-8 under 35 U.S.C. 103 (a) as being unpatentable over Banchs in view of Smith et al. ("Activating Networks: A Progress Report"). It is respectfully submitted that the pending claims are patentable over the cited references.

It is respectfully submitted that a *prima facie* case of obviousness has not been made. Neither references disclose the combining of route table and code cache. According to the paragraph in Smith called "Switchware" extensions are only referenced regarding the (resident) code base, not the route table. Switchware is typically an EE, in Smith's terminology. At the same time, the routing table is clearly a passive object that can be moved into the Node OS and thus does not intrinsically belong to the EE and its code and extensibility aspects.

Even if the cited prior art could be construed to disclose certain matter as contended by the Examiner, no disclosure or suggestion in any of the cited prior

art can be found which should lead a skilled artisan to combine their various features to achieve the claimed invention. That separate features of different references may not properly be combined, in the absence of some specific teaching that they should or could be so combined, is such well-settled law that it hardly need be repeated here. See, e.g., In re Newell, 13 U.S.P.Q. 2d 1248, 1250 (Fed. Cir. 1989), citing Smithkline Diagnostis v. Helena Laboratories Corp., 8 U.S.P.Q. 2d 1468, 1475 (Fed. Cir. 1988). In order to reach the conclusion that the claimed subject matter as a whole would have been obvious, there must have been some teaching, suggestion, or inference in either reference, or both, which would have led one of ordinary skill to combine the relevant teaching of the references. ACS Hospital System, Inc. v. Montefiore Hospital, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). No such teaching, suggestion or inference could be found in any of the cited prior art.

The Court of Appeals for the Federal Court clearly stated:

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teaching of the prior art so that the claimed invention is rendered obvious.

In re Fritch, 23 U.S.P.Q. 2d 1780, 23 1780, 1783 (Fed. Cir. 1992)

The In re Fritch holding only confirmed a long established view that obviousness should not be read "into an invention on the basis of Applicant's

own statements". The prior art must be viewed "without reading into that art Appellant's teachings" and the teachings of the prior art should, "in and of themselves and without the benefits of Appellant's disclosure (emphasis in the original text) make the invention as a whole, obvious." In re Sponnoble, 160 U.S.P.Q. 237, 243 (CPA 1969).

It is respectfully submitted that the teachings of the prior art does not make the present invention, as claimed in claims 6-8 obvious. Accordingly, Applicants respectfully request withdrawal of the obviousness rejection to such claims.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects, in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's amendment and the case passed to issue. Alternatively, should the

Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully Submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail and addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, Alexandria, VA 22313-1450 on March 8, 2004.